

1                   AMENDMENT TO HOUSE BILL 1815

2           AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1815, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5           "Section 1. Short title. This Act may be cited as the  
6 Petroleum Equipment Contractors Licensing Act.

7           Section 5. Definitions. For the purposes of this Act:

8           "Employee" means a licensee or a person who is currently  
9 employed by a contractor licensed under this Act whose full  
10 or part-time duties include any activity specified in Section  
11 35 of this Act.

12           "Person" means a natural person or any company,  
13 corporation, or other business entity.

14           "Petroleum equipment contractor" means a person, company,  
15 or corporation that installs, repairs, or removes underground  
16 storage tanks.

17           Section 10. Licensure requirement; injunction.  
18 Beginning 6 months after the effective date of this Act, no  
19 person, firm, association, or corporation shall act as a  
20 petroleum equipment contractor or employee, advertise or  
21 assume to act as a petroleum equipment contractor or

1 employee, or use any title implying that the person, firm,  
2 association, or corporation is engaged in such practice or  
3 occupation, unless licensed by the State Fire Marshal.

4 The State Fire Marshal, in the name of the People,  
5 through the Attorney General, the State's Attorney of any  
6 county, any resident of the State, or any legal entity within  
7 the State may apply for injunctive relief in any court to  
8 enjoin a person who has not been issued a license or whose  
9 license has been suspended, revoked, or not renewed, from  
10 practicing as a petroleum equipment contractor, and, upon the  
11 filing of a verified petition, the court, if satisfied by  
12 affidavit or otherwise that the person is or has been  
13 practicing in violation of this Act, may enter a temporary  
14 restraining order or preliminary injunction, without bond,  
15 enjoining the defendant from further activity. A copy of the  
16 verified complaint shall be served upon the defendant and the  
17 proceedings shall be conducted as in other civil cases. If  
18 it is established that the defendant has been, or is  
19 practicing in violation of this Act, the court may enter a  
20 judgment perpetually enjoining the defendant from any further  
21 unlicensed activity. In the case of violation of any  
22 injunctive order or judgment entered under the provisions of  
23 this Section, the court may summarily try and punish the  
24 offender for contempt of court. Such injunctive proceeding  
25 shall be in addition to all penalties and other remedies in  
26 this Act.

27 Section 15. Deposit of fees. All fees collected  
28 pursuant to this Act shall be deposited into the Fire  
29 Prevention Fund.

30 Section 25. Rules; report. The State Fire Marshal shall  
31 promulgate rules consistent with the provisions of this Act  
32 for the administration and enforcement of this Act and may

1 prescribe forms that shall be issued in connection with the  
2 rules promulgated under this Act. The rules shall include  
3 standards and criteria for registration, professional  
4 conduct, and discipline.

5 Section 30. Investigators. The State Fire Marshal may  
6 employ, in conformity with the Personnel Code, the  
7 professional, technical, investigative, or clerical help that  
8 may be necessary for the enforcement of this Act. Each  
9 investigator shall have a minimum of 2 years investigative  
10 experience out of the preceding 5 years.

11 An investigator may not hold an active license issued  
12 pursuant to this Act or have any fiduciary interest in any  
13 business licensed under this Act. This prohibition does not  
14 prohibit the investigator from holding stock in a publicly  
15 traded business licensed or regulated under this Act,  
16 provided that the investigator does not hold more than 5% of  
17 the stock of the business.

18 Section 35. Licensure qualifications and fees.

19 (a) Applicants for a license must submit to the Office  
20 all of the following:

- 21 (1) fees as established by the Office;
- 22 (2) evidence of registration as an Illinois  
23 corporation or evidence of compliance with the Assumed  
24 Business Name Act;
- 25 (3) evidence of financial responsibility in a  
26 minimum amount of \$1,000,000 through liability insurance,  
27 self-insurance, group insurance, group self-insurance, or  
28 risk retention groups that must include completed  
29 operations and environmental impairment; and
- 30 (4) evidence of compliance with the qualifications  
31 and standards established by the Office.

32 (b) The contractor must possess a license from the

1 Office to perform the following types of activity:

- 2 (1) installation of underground storage tanks;
- 3 (2) repair of USTs, which shall include  
4 retrofitting and installation of cathodic protection  
5 systems;
- 6 (3) decommissioning of USTs including abandonment  
7 in place;
- 8 (4) relining of USTs;
- 9 (5) tank and piping tightness testing;
- 10 (6) testing of cathodic protection systems; and
- 11 (7) any other category established by the Office of  
12 the State Fire Marshal.

13 (c) The Office of the Fire Marshal shall adopt rules  
14 outlining the minimum amount of training required for  
15 personnel engaged in Underground Storage Tank activity  
16 regulated under this Act.

17 Section 40. Application. Each application for a license  
18 to practice under this Act shall be in writing and signed by  
19 the applicant on forms provided by the Office of the State  
20 Fire Marshal.

21 Section 45. Issuance of license; renewal.

22 (a) The State Fire Marshal shall, upon the applicant's  
23 satisfactory completion of the requirements authorized under  
24 this Act, and upon receipt of the requisite fees, issue the  
25 appropriate license and wallet card showing the name and  
26 business location of the licensee, the dates of issuance and  
27 expiration, and shall contain a photograph of the licensee  
28 provided to the State Fire Marshal.

29 (b) Each licensee may apply for renewal of his or her  
30 license upon payment of the requisite fee. The expiration  
31 date and renewal period for each license issued under this  
32 Act shall be set by rule. Failure to renew within 60 days of

1 the date shall cause the license to lapse. A lapsed license  
2 may not be reinstated until a written application is filed,  
3 the renewal fee is paid, and a \$50 reinstatement fee is paid.  
4 The renewal and reinstatement fees shall be waived for  
5 persons who did not renew while on active duty in the  
6 military and who file for renewal or restoration within one  
7 year after discharge from the active duty service.

8 (c) All fees paid pursuant to this Act are  
9 non-refundable.

10 Section 50. Returned checks. Any person who on 2  
11 occasions issues or delivers a check or other order to the  
12 State Fire Marshal that is not honored by the financial  
13 institution upon which it is drawn because of insufficient  
14 funds in his or her account, shall pay to the State Fire  
15 Marshal, in addition to the amount owing upon the check or  
16 other order, a fee of \$50. If the check or other order was  
17 issued or delivered in payment of a renewal fee and the  
18 licensee whose license has lapsed continues to practice  
19 without paying the renewal fee and the \$50 fee required under  
20 this Section, an additional fee of \$100 shall be imposed for  
21 practicing without a current license. The State Fire Marshal  
22 shall notify the licensee whose license has lapsed within 30  
23 days after the discovery by the State Fire Marshal that the  
24 licensee is practicing without a current license, that the  
25 person is acting as a petroleum equipment contractor or  
26 employee, as the case may be, without a license, and the  
27 amount due to the State Fire Marshal, which shall include the  
28 lapsed renewal fee and all other fees required by this  
29 Section. If after the expiration of 30 days from the date of  
30 such notification, the licensee whose license has lapsed  
31 seeks a current license, he or she shall apply to the State  
32 Fire Marshal for reinstatement of the license and pay all  
33 fees due to the State Fire Marshal. The State Fire Marshal

1 may establish a fee for the processing of an application for  
2 reinstatement of a license that allows the State Fire Marshal  
3 to pay all costs and expenses incident to the processing of  
4 this application. The State Fire Marshal may waive the fees  
5 due under this Section in individual cases where he or she  
6 finds that the fees would be unreasonable or unnecessarily  
7 burdensome.

8 Section 60. License renewal; display of license;  
9 inspection.

10 (a) As a condition of renewal of a license, the State  
11 Fire Marshal may require the licensee to report information  
12 pertaining to his or her practice that the State Fire Marshal  
13 determines to be in the interest of public safety.

14 (b) A licensee shall report a change in home or office  
15 address within 10 days.

16 (c) Each licensee shall prominently display his or her  
17 license to practice at each place from which the practice is  
18 being performed. If more than one location is used, branch  
19 office certificates shall be issued upon payment of the fees  
20 to be established by the State Fire Marshal. Each employee  
21 shall carry on his or her person a wallet card issued by the  
22 State Fire Marshal.

23 (d) If a license or certificate is lost, a duplicate  
24 shall be issued upon payment of the required fee to be  
25 established by the State Fire Marshal. If a licensee wishes  
26 to change his or her name, the State Fire Marshal shall issue  
27 a license in the new name upon payment of the required fee  
28 and upon receipt of satisfactory proof that the change was  
29 done in accordance with law.

30 (e) Each licensee shall permit his or her facilities to  
31 be inspected by representatives of the Office of the State  
32 Fire Marshal.

1           Section 65. Disciplinary actions. Licensees shall be  
2 subject to disciplinary action for any of the following:

3           (1) obtaining or renewing a license by the use of  
4 fraud or material deception;

5           (2) being professionally incompetent as manifested  
6 by poor standards of service;

7           (3) engaging in dishonorable, unethical, or  
8 unprofessional conduct of a character likely to deceive,  
9 defraud, or harm the public in the course of professional  
10 services or activities;

11           (4) being convicted of a crime that has a  
12 substantial relationship to his or her practice or an  
13 essential element of which is misstatement, fraud, or  
14 dishonesty, being convicted in this or another state of  
15 any crime that is a felony under the laws of Illinois or  
16 of that state, or being convicted of a felony in a  
17 federal court, unless the licensee demonstrates that he  
18 or she has been sufficiently rehabilitated to warrant the  
19 public trust;

20           (5) performing any service in a grossly negligent  
21 manner or permitting any licensed employee to perform  
22 services in a grossly negligent manner, regardless of  
23 whether actual damage or damage to the public is  
24 established;

25           (6) being habitual drunk or having a habitual  
26 addiction to the use of morphine, cocaine, controlled  
27 substances, or other habit-forming drugs;

28           (7) willfully receiving compensation, directly or  
29 indirectly, for any professional service not actually  
30 rendered;

31           (8) having disciplinary action taken against his or  
32 her license in another State;

33           (9) contracting or assisting unlicensed persons to  
34 perform services for which a license is required under

1 this Act;

2 (10) permitting the use of his or her license to  
3 enable an unlicensed person or agency to operate as a  
4 licensee;

5 (11) performing and charging for services without  
6 having authorization to do so from the member of the  
7 public being served; or

8 (12) failing to comply with any provision of this  
9 Act or the rules adopted under this Act.

10 Section 70. Complaints. All complaints concerning  
11 violations regarding licensees or unlicensed activity shall  
12 be received and logged by the State Fire Marshal.

13 Section 75. Formal charges; hearings.

14 (a) Following the investigative process, the State Fire  
15 Marshal may file formal charges against the licensee. The  
16 formal charges shall, at a minimum, inform the licensee of  
17 the facts that comprise the basis of the charge and that are  
18 specific enough to enable the licensee to defend himself or  
19 herself.

20 (b) Each licensee whose conduct is the subject of a  
21 formal charge that seeks to impose disciplinary action  
22 against the licensee shall be served notice of the formal  
23 charge at least 30 days before the date of the hearing, which  
24 shall be presided over by a hearing officer authorized by the  
25 State Fire Marshal. Service shall be considered to have been  
26 given if the notice was personally received by the licensee  
27 or if the notice was sent by certified mail, return receipt  
28 requested, to the licensee at the licensee's last known  
29 address as listed with the State Fire Marshal.

30 (c) The notice of formal charges shall inform the  
31 licensee (i) of the time, date, and place of the hearing;  
32 (ii) that the licensee shall appear personally at the hearing

1 and may be represented by counsel; (iii) that the licensee  
2 shall have the right to produce witnesses and evidence in his  
3 or her behalf and shall have the right to cross-examine  
4 witnesses and examine evidence produced against him or her;  
5 (iv) that the hearing could result in disciplinary action  
6 being taken against his or her license; (v) that rules for  
7 the conduct of these hearings exist and it may be in the  
8 licensee's best interest to obtain a copy; (vi) that a  
9 hearing officer authorized by the State Fire Marshal shall  
10 preside at the hearing and following the conclusion of the  
11 hearing shall make findings of fact, conclusions of law, and  
12 recommendations to the State Fire Marshal as to what  
13 disciplinary action, if any, should be imposed on the  
14 licensee; and (vii) that the State Fire Marshal may continue  
15 the hearing.

16 (d) The hearing officer authorized by the State Fire  
17 Marshal shall hear the evidence produced in support of the  
18 formal charges and any contrary evidence produced by the  
19 licensee. At the conclusion of the hearing, the hearing  
20 officer shall make findings of fact, conclusions of law, and  
21 recommendations and submit them to the State Fire Marshal and  
22 to all parties to the proceeding. Submission to the licensee  
23 shall be considered as having been made if done in a similar  
24 fashion as service of the notice of formal charges. Within  
25 20 days after such service, any party to the proceeding may  
26 present to the State Fire Marshal a motion, in writing, for a  
27 rehearing that specifies the grounds for rehearing.

28 (e) The State Fire Marshal, following the time allowed  
29 for filing a motion for rehearing, shall review the hearing  
30 officer's findings of fact, conclusions of law, and  
31 recommendations and any motions filed subsequent to the  
32 findings, conclusions, and recommendations. After reviewing  
33 this information, the State Fire Marshal may hear oral  
34 arguments, prior to issuing an order. The report of findings

1 of fact, conclusions of law, and recommendations of the  
2 hearing officer shall be the basis for the State Fire  
3 Marshal's order.

4 If the State Fire Marshal finds that substantial justice  
5 was not done, he or she may issue an order in contravention  
6 to the findings of fact, conclusions of law, and  
7 recommendations of the hearing officer. The finding is not  
8 admissible in evidence against the person in a criminal  
9 prosecution brought for the violation of this Act.

10 (f) All proceedings pursuant to this Section are matters  
11 of public record and shall be preserved.

12 Section 80. Sanctions.

13 (a) The State Fire Marshal shall impose any of the  
14 following sanctions, singly or in combination, when he or she  
15 finds that a licensee is guilty of any offense described in  
16 Section 65:

- 17 (1) revocation;
- 18 (2) suspension for any period of time;
- 19 (3) reprimand or censure;
- 20 (4) placement on probationary status and  
21 requirement that the licensee submit of any of the  
22 following:
  - 23 (A) report regularly to the State Fire Marshal  
24 upon matters that are the basis of the probation;
  - 25 (B) continue or renew professional education  
26 until a satisfactory degree of skill has been  
27 attained in those areas that are the basis of the  
28 probation; or
  - 29 (C) any other reasonable requirements or  
30 restrictions as are proper;
- 31 (5) refusal to issue, renew, or restore; or
- 32 (6) revocation of probation that has been granted  
33 and imposition of any other discipline in this subsection

1 (a) when the requirements of probation have not been  
2 fulfilled or have been violated.

3 (b) The State Fire Marshal may summarily suspend a  
4 license under this Act, without a hearing, simultaneously  
5 with the filing of a formal complaint and notice for a  
6 hearing, if the State Fire Marshal finds that the continued  
7 operations of the individual would constitute an immediate  
8 danger to the public. In the event the State Fire Marshal  
9 suspends a license under this subsection, a hearing by the  
10 hearing officer designated by the State Fire Marshal shall be  
11 held within 20 days after the suspension begins, unless  
12 continued at the request of the licensee.

13 (c) Disposition may be made of any formal complaint by  
14 consent order between the State Fire Marshal and the  
15 licensee.

16 (d) The State Fire Marshal shall reinstate a license to  
17 good standing under this Act, upon recommendation to the  
18 State Fire Marshal, after a hearing before the hearing  
19 officer authorized by the State Fire Marshal. The State Fire  
20 Marshal shall be satisfied that the applicant's renewed  
21 practice is not contrary to the public interest.

22 (e) The State Fire Marshal may conduct hearings and  
23 issue cease and desist orders to persons who engage in  
24 activities prohibited by this Act without having a valid  
25 license, certificate, or registration. Any person in  
26 violation of a cease and desist order entered by the State  
27 Fire Marshal shall be subject to all of the remedies provided  
28 by law and, in addition, shall be subject to a civil penalty  
29 payable to the party injured by the violation.

30 (f) The State Fire Marshal shall seek to achieve  
31 consistency in the application of the foregoing sanctions and  
32 consent orders and significant departure from prior decisions  
33 involving similar conduct shall be explained in the State  
34 Fire Marshal's orders.

1 (g) Upon the suspension or revocation of a license  
2 issued under this Act, a licensee shall surrender the license  
3 to the State Fire Marshal and, upon failure to do so, the  
4 State Fire Marshal shall seize the same.

5 (g-5) Any person, business, or corporation whose license  
6 has been revoked under the provisions of this Act is  
7 prohibited, for a period of 2 years from the date of  
8 revocation, from owning more than 7 1/2% of a business or  
9 corporation licensed under this Act.

10 (h) The State Fire Marshal may refuse to issue or may  
11 suspend the license of any person who fails to file a return,  
12 to pay the tax, penalty, or interest shown in a filed return,  
13 or to pay any final assessment of tax, penalty, or interest,  
14 as required by any tax Act administered by the Illinois  
15 Department of Revenue, until the time that the requirements  
16 of any such tax Act are satisfied.

17 Section 85. Depositions; witnesses; judicial review.

18 (a) The State Fire Marshal has the power to subpoena and  
19 bring before him or her any person in this State and to take  
20 testimony either orally or by deposition, or both, with the  
21 same fees and mileage and in the same manner as is prescribed  
22 by law for judicial proceedings in civil cases. The State  
23 Fire Marshal and the hearing officer approved by the State  
24 Fire Marshal have the power to administer oaths at any  
25 hearing that the State Fire Marshal is authorized to conduct.

26 (b) A circuit court, upon the application of the  
27 licensee or the State Fire Marshal, may order the attendance  
28 of witnesses and the production of relevant books and papers  
29 in any hearing conducted pursuant to this Act. The court may  
30 compel obedience to its order by proceedings for contempt.

31 (c) The State Fire Marshal, at the Office's expense,  
32 shall provide a stenographer or a mechanical recording  
33 device to record the testimony and preserve a record of all

1 proceedings at the hearing of any case wherein a license may  
2 be revoked, suspended, placed on probationary status, or  
3 other disciplinary action taken with regard to the license.  
4 The notice of hearing, the complaint, and all other documents  
5 in the nature of pleadings and written motions filed in the  
6 proceedings, the transcript of testimony, the report of the  
7 hearing officer, and the orders of the State Fire Marshal  
8 constitute the record of the proceedings. The State Fire  
9 Marshal shall furnish a transcript of the record to any  
10 interested person upon payment of the costs of copying and  
11 transmitting the record.

12 (d) All final administrative decisions of the State Fire  
13 Marshal are subject to judicial review pursuant to the  
14 provisions of the Administrative Review Law and the rules  
15 adopted pursuant thereto. Proceedings for judicial review  
16 shall be commenced in the Circuit Court of the county in  
17 which the party applying for review resides. If party  
18 applying for review is not a resident of Illinois, the venue  
19 shall be in Sangamon County. The State Fire Marshal shall not  
20 be required to certify any record to the court, file any  
21 answer in court, or otherwise appear in any court in a  
22 judicial review proceeding, unless there is filed in the  
23 court with the complaint a receipt from the State Fire  
24 Marshal acknowledging payment of the costs of furnishing and  
25 certifying the record, which costs shall be computed at the  
26 cost of preparing such record. Exhibits shall be certified  
27 without cost. Failure on the part of the licensee to file  
28 the receipt in court shall be grounds for dismissal of the  
29 action.

30 During all judicial proceedings incident to disciplinary  
31 action, the sanctions imposed upon the accused by the State  
32 Fire Marshal shall remain in effect, unless the court feels  
33 justice requires a stay of the order.

1 Section 90. Order; prima facie proof. An order or a  
2 certified copy of an order, bearing the seal of the State  
3 Fire Marshal and purporting to be signed by the State Fire  
4 Marshal, is prima facie proof that:

5 (1) the signature is that of the State Fire  
6 Marshal;

7 (2) the State Fire Marshal is qualified to act; and

8 (3) the hearing officer is qualified to act on  
9 behalf of the State Fire Marshal.

10 Such proof may be rebutted.

11 Section 95. Publication of records. The State Fire  
12 Marshal shall, upon request, publish a list of the names and  
13 addresses of all licensees under the provisions of this Act.

14 Section 100. Criminal penalties. A person who violates  
15 any of the provisions of this Act shall be guilty of a Class  
16 A misdemeanor for the first offense and shall be guilty of a  
17 Class 4 felony for a second or subsequent offense.

18 Section 105. Home rule. The regulation and licensing of  
19 petroleum equipment contractors are exclusive powers and  
20 functions of the State. A home rule unit may not regulate or  
21 license petroleum equipment contractors. This Section is a  
22 denial and limitation of home rule powers and functions under  
23 subsection (h) of Section 6 of Article VII of the Illinois  
24 Constitution.

25 Section 900. The Regulatory Sunset Act is amended by  
26 adding Section 4.22 as follows:

27 (5 ILCS 80/4.22 new)

28 Sec. 4.22. Act repealed on January 1, 2012. The

1 following Act is repealed on January 1, 2012:

2 The Petroleum Equipment Contractors Licensing Act.

3 Section 905. The Gasoline Storage Act is amended by  
4 changing Sections 2 and 7 as follows:

5 (430 ILCS 15/2) (from Ch. 127 1/2, par. 154)

6 Sec. 2. Jurisdiction; regulation of tanks.

7 (1) (a) Except as otherwise provided in this Act, the  
8 jurisdiction of the Office of the State Fire Marshal under  
9 this Act shall be concurrent with that of municipalities and  
10 other political subdivisions. The Office of the State Fire  
11 Marshal has power to promulgate, pursuant to the Illinois  
12 Administrative Procedure Act, reasonable rules and  
13 regulations governing the keeping, storage, transportation,  
14 sale or use of gasoline and volatile oils, ~~including rules~~  
15 ~~requiring that underground storage tank contractors file a~~  
16 ~~bond or a certificate of insurance with the State Fire~~  
17 ~~Marshal, and rules governing the dismantling of abandoned~~  
18 ~~bulk storage plants.~~ Nothing in this Act shall relieve any  
19 person, corporation, or other entity from complying with any  
20 zoning ordinance of a municipality or home rule unit enacted  
21 pursuant to Section 11-13-1 of the Illinois Municipal Code or  
22 any ordinance enacted pursuant to Section 11-8-4 of the  
23 Illinois Municipal Code.

24 (b) The rulemaking power shall include the power to  
25 promulgate rules providing for the issuance and revocation of  
26 permits allowing the self service dispensing of motor fuels  
27 as such term is defined in the Motor Fuel Tax Law in retail  
28 service stations or any other place of business where motor  
29 fuels are dispensed into the fuel tanks of motor vehicles,  
30 internal combustion engines or portable containers. Such  
31 rules shall specify the requirements that must be met both  
32 prior and subsequent to the issuance of such permits in order

1 to insure the safety and welfare of the general public. The  
2 operation of such service stations without a permit shall be  
3 unlawful. The Office of the State Fire Marshal shall revoke  
4 such permit if the self service operation of such a service  
5 station is found to pose a significant risk to the safety and  
6 welfare of the general public.

7 (c) However, except in any county with a population of  
8 1,000,000 or more, the Office of the State Fire Marshal shall  
9 not have the authority to prohibit the operation of a service  
10 station solely on the basis that it is an unattended  
11 self-service station which utilizes key or card operated  
12 self-service motor fuel dispensing devices. Nothing in this  
13 paragraph shall prohibit the Office of the State Fire Marshal  
14 from adopting reasonable rules and regulations governing the  
15 safety of self-service motor fuel dispensing devices.

16 (d) The State Fire Marshal shall not prohibit the  
17 dispensing or delivery of flammable or combustible motor  
18 vehicle fuels directly into the fuel tanks of vehicles from  
19 tank trucks, tank wagons, or other portable tanks. The State  
20 Fire Marshal shall adopt rules (i) for the issuance of  
21 permits for the dispensing of motor vehicle fuels in the  
22 manner described in this paragraph (d), (ii) that establish  
23 fees for permits and inspections, and provide for those fees  
24 to be deposited into the Fire Prevention Fund, (iii) that  
25 require the dispensing of motor fuel in the manner described  
26 in this paragraph (d) to meet conditions consistent with  
27 nationally recognized standards such as those of the  
28 National Fire Protection Association, and (iv) that restrict  
29 the dispensing of motor vehicle fuels in the manner described  
30 in this paragraph (d) to the following:

- 31 (A) agriculture sites for agricultural purposes,
- 32 (B) construction sites for refueling construction  
33 equipment used at the construction site,
- 34 (C) sites used for the parking, operation, or

1 maintenance of a commercial vehicle fleet, but only if  
2 the site is located in a county with 3,000,000 or more  
3 inhabitants or a county contiguous to a county with  
4 3,000,000 or more inhabitants and the site is not  
5 normally accessible to the public, and

6 (D) sites used for the refueling of police, fire,  
7 or emergency medical services vehicles or other vehicles  
8 that are owned, leased, or operated by (or operated under  
9 contract with) the State, a unit of local government, or  
10 a school district, or any agency of the State and that  
11 are not normally accessible to the public.

12 (2) (a) The Office of the State Fire Marshal shall adopt  
13 rules and regulations regarding underground storage tanks and  
14 associated piping and no municipality or other political  
15 subdivision shall adopt or enforce any ordinances or  
16 regulations regarding such underground tanks and piping other  
17 than those which are identical to the rules and regulations  
18 of the Office of the State Fire Marshal. It is declared to  
19 be the law of this State, pursuant to paragraphs (h) and (i)  
20 of Section 6 of Article VII of the Illinois Constitution,  
21 that the establishment and enforcement of standards regarding  
22 underground storage tanks and associated piping within the  
23 jurisdiction of the Office of the State Fire Marshal is an  
24 exclusive State function which may not be exercised  
25 concurrently by a home rule unit except as expressly  
26 permitted in this Act.

27 (b) The Office of the State Fire Marshal may enter into  
28 written contracts with municipalities of over 500,000 in  
29 population to enforce the rules and regulations adopted under  
30 this subsection.

31 (3) (a) The Office of the State Fire Marshal shall have  
32 authority over underground storage tanks which contain, have  
33 contained, or are designed to contain petroleum, hazardous  
34 substances and regulated substances as those terms are used

1 in Subtitle I of the Hazardous and Solid Waste Amendments of  
2 1984 (P.L. 98-616), as amended by the Superfund Amendments  
3 and Reauthorization Act of 1986 (P.L. 99-499). The Office  
4 shall have the power with regard to underground storage tanks  
5 to require any person who tests, installs, repairs, replaces,  
6 relines, or removes any underground storage tank system  
7 containing, formerly containing, or which is designed to  
8 contain petroleum or other regulated substances ~~to--be~~  
9 ~~certified--to--perform--that--activity,~~ to obtain a permit to  
10 install, repair, replace, reline, or remove the particular  
11 tank system, ~~to pay an annual certification fee of \$100 per~~  
12 ~~year,~~ and to pay a fee set by the Office of \$100 per site for  
13 a permit to install, repair, replace, reline, upgrade, test,  
14 or remove any portion of an underground storage tank system.  
15 All persons who do repairs above grade level for themselves  
16 need not pay a fee or be certified. All fees received by the  
17 Office from certification and permits shall be deposited in  
18 the Fire Prevention Fund for the exclusive use of the Office  
19 in administering the Underground Storage Tank program.

20 (b) (i) Within 120 days after the promulgation of  
21 regulations or amendments thereto by the Administrator of the  
22 United States Environmental Protection Agency to implement  
23 Section 9003 of Subtitle I of the Hazardous and Solid Waste  
24 Amendments of 1984 (P.L. 98-616) of the Resource Conservation  
25 and Recovery Act of 1976 (P.L. 95-580), as amended, the  
26 Office of the State Fire Marshal shall adopt regulations or  
27 amendments thereto which are identical in substance. The  
28 rulemaking provisions of Section 5-35 of the Illinois  
29 Administrative Procedure Act shall not apply to regulations  
30 or amendments thereto adopted pursuant to this subparagraph  
31 (i).

32 (ii) The Office of the State Fire Marshal may adopt  
33 additional regulations relating to an underground storage  
34 tank program that are not inconsistent with and at least as

1 stringent as Section 9003 of Subtitle I of the Hazardous and  
2 Solid Waste Amendments of 1984 (P.L. 98-616) of the Resource  
3 Conservation and Recovery Act of 1976 (P.L. 94-580), as  
4 amended, or regulations adopted thereunder. Except as  
5 provided otherwise in subparagraph (i) of this paragraph (b),  
6 the Office of the State Fire Marshal shall not adopt  
7 regulations relating to corrective action at underground  
8 storage tanks. Regulations adopted pursuant to this  
9 subsection shall be adopted in accordance with the procedures  
10 for rulemaking in Section 5-35 of the Illinois Administrative  
11 Procedure Act.

12 (c) The Office of the State Fire Marshal shall require  
13 any person, corporation or other entity who tests an  
14 underground tank or its piping or cathodic protection for  
15 ~~another, except a lesser for his or her lessee, to register~~  
16 ~~with the Office, and pay an annual registration fee of \$100,~~  
17 ~~to be deposited in the Fire Prevention Fund, and~~ to report  
18 the results of such test to the Office.

19 (d) In accordance with constitutional limitations, the  
20 Office shall have authority to enter at all reasonable times  
21 upon any private or public property for the purpose of:

22 (i) Inspecting and investigating to ascertain  
23 possible violations of this Act, of regulations  
24 thereunder or of permits or terms or conditions thereof;  
25 or

26 (ii) In accordance with the provisions of this Act,  
27 taking whatever emergency action, that is necessary or  
28 appropriate, to assure that the public health or safety  
29 is not threatened whenever there is a release or a  
30 substantial threat of a release of petroleum or a  
31 regulated substance from an underground storage tank.

32 (e) The Office of the State Fire Marshal may issue an  
33 Administrative Order to any person who it reasonably believes  
34 has violated the rules and regulations governing underground

1 storage tanks, including the installation, repair, leak  
2 detection, cathodic protection tank testing, removal or  
3 release notification. Such an order shall be served by  
4 registered or certified mail or in person. Any person served  
5 with such an order may appeal such order by submitting in  
6 writing any such appeal to the Office within 10 days of the  
7 date of receipt of such order. The Office shall conduct an  
8 administrative hearing governed by the Illinois  
9 Administrative Procedure Act and enter an order to sustain,  
10 modify or revoke such order. Any appeal from such order shall  
11 be to the circuit court of the county in which the violation  
12 took place and shall be governed by the Administrative Review  
13 Law.

14 (f) The Office of the State Fire Marshal shall not  
15 require the removal of an underground tank system taken out  
16 of operation before January 2, 1974, except in the case in  
17 which the office of the State Fire Marshal has determined  
18 that a release from the underground tank system poses a  
19 current or potential threat to human health and the  
20 environment. In that case, and upon receipt of an Order from  
21 the Office of the State Fire Marshal, the owner or operator  
22 of the nonoperational underground tank system shall assess  
23 the excavation zone and close the system in accordance with  
24 regulations promulgated by the Office of the State Fire  
25 Marshal.

26 (4) (a) The Office of the State Fire Marshal shall adopt  
27 rules and regulations regarding aboveground storage tanks and  
28 associated piping and no municipality or other political  
29 subdivision shall adopt or enforce any ordinances or  
30 regulations regarding such aboveground tanks and piping other  
31 than those which are identical to the rules and regulations  
32 of the Office of the State Fire Marshal unless, in the  
33 interest of fire safety, the Office of the State Fire Marshal  
34 delegates such authority to municipalities, political

1 subdivisions or home rule units. It is declared to be the  
2 law of this State, pursuant to paragraphs (h) and (i) of  
3 Section 6 of Article VII of the Illinois Constitution, that  
4 the establishment of standards regarding aboveground storage  
5 tanks and associated piping within the jurisdiction of the  
6 Office of the State Fire Marshal is an exclusive State  
7 function which may not be exercised concurrently by a home  
8 rule unit except as expressly permitted in this Act.

9 (b) The Office of the State Fire Marshal shall enforce  
10 its rules and regulations concerning aboveground storage  
11 tanks and associated piping; however, municipalities may  
12 enforce any of their zoning ordinances or zoning regulations  
13 regarding aboveground tanks. The Office of the State Fire  
14 Marshal may issue an administrative order to any owner of an  
15 aboveground storage tank and associated piping it reasonably  
16 believes to be in violation of such rules and regulations to  
17 remedy or remove any such violation. Such an order shall be  
18 served by registered or certified mail or in person. Any  
19 person served with such an order may appeal such order by  
20 submitting in writing any such appeal to the Office within 10  
21 days of the date of receipt of such order. The Office shall  
22 conduct an administrative hearing governed by the Illinois  
23 Administrative Procedure Act and enter an order to sustain,  
24 modify or revoke such order. Any appeal from such order  
25 shall be to the circuit court of the county in which the  
26 violation took place and shall be governed by the  
27 Administrative Review Law.

28 (Source: P.A. 91-851, eff. 1-1-01.)

29 (430 ILCS 15/7) (from Ch. 127 1/2, par. 159)

30 Sec. 7. (a) A violation of:

31 (1) paragraph (a) or (b) of subsection (3) of  
32 Section 2 of this Act is a business offense punishable by  
33 a fine of not more than \$10,000 per day;

1           (2) (blank); paragraph (e) of subsection (3) of  
 2 Section 2 is a petty offense punishable by a fine of not  
 3 less than \$100 nor more than \$500 per tank tested;

4           (3) Section Sections 4 and 5 of this Act is a  
 5 business offense punishable by a fine of not more than  
 6 \$10,000 per day;

7           (3.5) Section 3.5 of this Act is a business offense  
 8 punishable by fine of not more than \$10,000 per offense;

9           (4) an administrative order as described in  
 10 paragraph (e) of subsection (3) of Section 2, paragraph  
 11 (b) of subsection (4) of Section 2 or subsection (c) of  
 12 Section 6 after it has become final is a business offense  
 13 punishable by a fine of not less than \$1,000 nor more  
 14 than \$25,000 per day;

15           (5) any other rule promulgated by the Office of the  
 16 State Fire Marshal is a business offense punishable by a  
 17 fine of not less than \$100 nor more than \$1,000 for each  
 18 offense or each day of continued violation.

19           (b) (Blank). The State Fire Marshal may suspend or  
 20 revoke the registration of any person who has violated the  
 21 rules of the State Fire Marshal after notice and opportunity  
 22 for an administrative hearing which shall be governed by the  
 23 Illinois Administrative Procedure Act. Any appeal from such  
 24 suspension or revocation shall be to the circuit court of the  
 25 county in which the hearing was held and be governed by the  
 26 Administrative Review Law.

27           (c) A civil action to recover such fines may be brought  
 28 by the Attorney General or the State's Attorney of the county  
 29 in which the violation occurred.

30           (d) Any monies received by the State under this Section  
 31 shall be deposited into the Underground Storage Tank Fund.  
 32 (Source: P.A. 90-662, eff. 7-30-98.)

33           Section 999. Effective date. This Act takes effect upon

1 becoming law.".